

# EXHIBIT A

**A (1)**

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CLERK, SUPERIOR COURT

BY

DEPUTY  
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11 Attorneys for Plaintiff Filiberto J. Islas, Jr.

12 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

13 **IN AND FOR THE COUNTY OF PIMA**

14 Filiberto J. Islas, a married man,

15 Plaintiff,

16 vs.

17 M & O Agencies, Incorporated, an  
18 Arizona corporation, dba The Mahoney  
19 Group; XYZ Corporations 1-3; John and  
20 Jane Does 1-20;

21 Defendant.

22 **C20109665**

23 NO. \_\_\_\_\_

24 **COMPLAINT**

25 (Tort; Civil Rights)

26 Richard E. Gordon  
(Assigned to \_\_\_\_\_)

27 Plaintiff Filiberto J. Islas, for his Complaint alleges as follows:

28 1. Plaintiff Filiberto J. Islas is a resident of Pima County, Arizona.

29 2. Defendant M & O Agencies, Incorporated, an Arizona corporation, doing  
30 business as "The Mahoney Group," which does business in Pima County.

31 3. Defendants XYZ Corporations 1 through 3 and John and Jane Does 1 through  
32 20 are individuals and entities whose true identities are unknown to Plaintiff but who are  
33 named herein because:

34 a. They participated in or ratified the acts alleged herein;  
35 b. They are controlling owners of the named Defendant and are  
36 personally liable for the acts alleged herein;

- c. They are otherwise liable for the acts alleged herein; and/or
- d. They are otherwise proper parties.

3 4. This action involves acts which occurred in Pima County, Arizona, and Pima  
4 County is therefore the proper venue for filing this lawsuit.

5       5. Plaintiff Filiberto Islas (“Mr. Islas”) is a licensed insurance agent in the State  
6 of Arizona.

7       6. Starting on June 9, 1986 and ending on September 1, 2009, Mr. Islas was  
8 employed by Defendant's Tucson office as a Commercial Line Agent ("CLA").

9       7.     Mr. Islas was, at all times, qualified to perform and has adequately and  
10 competently performed all reasonable requirements of his job as a CLA with the Defendant.

11 8. Mr. Islas was the most senior employee in the Tucson office and was  
12 consistently a top producer throughout his 23-year career.

13        9.      In 2009, Mr. Islas was subject to disparate treatment in his employment.  
14 Among other things, Defendant subjected Mr. Islas to performance criteria and other  
15 conditions of employment not required of similarly situated employees.

16 10. On August 5, 2009, Mr. Islas filed a claim of discrimination with Defendant's  
17 Human Resources Department, wherein he complained he was discriminated against  
18 because he had previously testified in a sexual harassment case filed against one of the  
19 principals of Defendant.

20 11. On September 1, 2009, Mr. Islas was singled out for disparate treatment  
21 and/or terminated for improper reasons, including but not limited to:

22 a. In retaliation for filing an internal EEO complaint;  
23 b. In retaliation for filing an ACRD and EEOC complaint;  
24 c. In retaliation for giving testimony in a sexual harassment lawsuit  
25 previously filed against one of the principals of Defendant; and  
26 d. For reasons that violate public policy.

1       12. As a direct and proximate result of the complained of actions, Plaintiff has  
2 suffered damages, including but not limited to, loss of wages, loss of commissions, damage  
3 to his reputation, emotional distress and other damages.

4       16. Plaintiff is entitled to his reasonable costs and attorneys' fees.

5       17. The actions of Defendant were intentional, willful and wanton so as to justify  
6 the imposition of punitive damages.

7           WHEREFORE, Plaintiff respectfully requests that the Court grant judgment against  
8 Defendant as follows:

- 9       A. For compensatory damages;
- 10      B. For punitive damages;
- 11      C. For reasonable costs and attorneys' fees;
- 12      D. For such injunctive relief as may be required to redress the actions  
13 complained of herein; and
- 14      E. For such other relief as may be just and proper.

15           DATED this 13th day of December, 2010.

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17           RUSING & LOPEZ, P.L.L.C.

18  
19           John H. Bundt  
20           Catherine M. Woods  
21           Attorneys for Plaintiff

A (2)

ARIZONA SUPERIOR COURT, COUNTY OF PIMA

Filiberto J. Islas, a married man,

) Case No.

**C20109665**

) Plaintiff,

) SUMMONS

) vs.

M & O Agencies, Incorporated, an Arizona corporation, dba The Mahoney Group; XYZ Corporations 1-3; John and Jane Does 1-20;

) Richard E. Gordon

) Defendant.

THE STATE OF ARIZONA to the above-named Defendant:

M & O Agencies, Incorporated  
c/o Michael J Mesenbrink, Statutory Agent  
20410 N 19th Ave #170  
Phoenix, AZ 85027

1. A lawsuit has been filed against you.
2. If you do not want a Judgment taken against you for the relief demanded in the accompanying Complaint, you must file a Response in writing in the Office of the Clerk of the Superior Court, 110 West Congress, Tucson, Arizona 85701, accompanied by the necessary filing fee. A copy of the Response must also be mailed to the Plaintiff/Attorney whose name appears below.
3. The Response must be filed within **TWENTY DAYS**, exclusive of the date of service, if served within the State of Arizona, or within **THIRTY DAYS**, exclusive of the date of service, if served outside the State of Arizona.
4. This is a legal document. If you do not understand its consequences, you should seek the advice of an attorney.
5. Requests for reasonable accommodation for persons with disabilities must be made to the court by parties at least three working days in advance of a scheduled court proceeding.

WITNESS My Hand and the Seal of the Superior Court.

**PATRICIA A. NOLAND**

DATED: **DEC 1 3 2010**

CLERK OF THE SUPERIOR COURT

*Michael Muske*

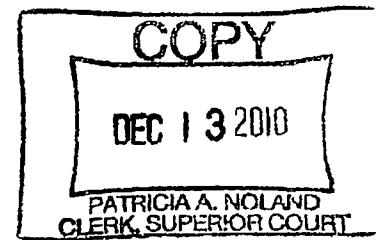
By \_\_\_\_\_  
Deputy Clerk

ATTORNEY'S NAME, ADDRESS, PHONE

John H. Sundt  
State Bar No. 011992; PCC No. 56192  
Katherine M. Woods  
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12 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

13 **IN AND FOR THE COUNTY OF PIMA**

14 Filiberto J. Islas, a married man,

15 Plaintiff,

16 vs.

17 M & O Agencies, Incorporated, an  
18 Arizona corporation, dba The Mahoney  
19 Group; XYZ Corporations 1-3; John and  
20 Jane Does 1-20;

21 Defendant.

**C20109665**

22 NO. \_\_\_\_\_

23 **CERTIFICATE OF COMPULSORY  
24 ARBITRATION**  
25 (Tort; Civil Rights)

26 (Assigned to Richard E. Gordon)

27 Plaintiff Filiberto J. Islas, through undersigned counsel, pursuant to  
28 ARIZ.CIV.P. 72-76, hereby certifies that they know the dollar limits and any other  
29 limitations set forth by the local rules of practice for the applicable superior court and  
30 further certifies that this case is not subject to compulsory arbitration.

31 DATED this 13th day of December, 2010.

32 RUSING & LOPEZ, P.L.L.C.

33   
34 John H. Sundt  
35 Catherine M. Woods  
36 Attorneys for Plaintiff

**A (4)**

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13 Attorneys for Plaintiff Filiberto J. Islas, Jr.

14 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

15 **IN AND FOR THE COUNTY OF PIMA**

16 Filiberto J. Islas, a married man,

17 Plaintiff,

18 vs.

19 M & O Agencies, Incorporated, an  
20 Arizona corporation, dba The Mahoney  
21 Group; Leon Byrd and Patricia Roberts,  
22 husband and wife; XYZ Corporations 1-  
23 3; John and Jane Does 1-20;

24 Defendants.

25 NO. C20109665

26 **FIRST AMENDED COMPLAINT**

(Tort; Civil Rights; Breach of the Implied  
Covenant of Good Faith and Fair Dealing;  
Tortious Interference; Unjust Enrichment)

(Assigned to Hon. Richard E. Gordon)

27 Plaintiff Filiberto J. Islas, for his First Amended Complaint alleges as follows:

28 **PARTIES, JURISDICTION AND VENUE**

29 1. Plaintiff Filiberto J. Islas is a resident of Pima County, Arizona.

30 2. Defendant M&O Agencies, Incorporated ("M&O"), is an Arizona  
31 corporation, doing business as "The Mahoney Group," and which does business in Pima  
32 County.

33 3. Upon information and belief, Defendant Leon Byrd is an individual residing  
34 in Pima County, Arizona.

1       4. Upon information and belief, Defendant Patricia Roberts is an individual  
2 residing in Pima County, Arizona.

3 5. Upon information and belief, at all times relevant hereto, Defendants Leon  
4 Byrd and Patricia Roberts were husband and wife.

6. Upon information and belief, at all times mentioned herein, the acts of Leon  
7 Byrd were taken for the benefit of the Byrd-Roberts marital community and did benefit the  
Byrd-Roberts marital community.

8       7. Defendants XYZ Corporations 1 through 3 and John and Jane Does 1 through  
9 20 are individuals and entities whose true identities are unknown to Plaintiff and are named  
10 herein because:

- a. They participated in or ratified the acts alleged herein;
- b. They are controlling owners, agents, or employees of the named Defendant and are personally liable for the acts alleged herein;
- c. They are otherwise liable for the acts alleged herein; and/or
- d. They are otherwise proper parties.

16 Plaintiff reserves the right to amend its First Amended Complaint to include the  
17 specific name of such entities and persons in a timely manner after their true identity is  
18 ascertained.

19       8.     This action involves actions and events that occurred exclusively in Pima  
20 County, Arizona, therefore Pima County is the proper venue for filing this lawsuit, pursuant  
21 to A.R.S. §12-401.

22 9. This court has jurisdiction over this action pursuant to A.R.S. § 12-123.

## GENERAL ALLEGATIONS

24 10. Plaintiff Filiberto Islas (“Mr. Islas”) is, and at all times relevant hereto was, a  
25 licensed insurance agent in the State of Arizona.

26 11. For approximately 23 years, beginning on June 9, 1986 and ending on

1 September 1, 2009, Mr. Islas was employed by Defendant M&O's Tucson office as a  
 2 Commercial Lines Agent ("CLA").

3       12. During his 23-year term of employment, Mr. Islas was, at all times, qualified  
 4 to perform and adequately and competently performed all reasonable requirements of his  
 5 job as a CLA with the Defendant M&O.

6       13. On or about September 1, 2009 Defendants terminated Mr. Islas' employment  
 7 with Defendant M&O.

8       14. At the time of his termination, Mr. Islas was the most senior employee in  
 9 Defendant M&O's Tucson office and was consistently a top producer throughout his 23-  
 10 year career.

11       15. Beginning in 2003 and throughout Mr. Islas' employment with Defendant  
 12 M&O, Defendant Leon Byrd was the Vice President, and an owner and member of the  
 13 Board of Directors of Defendant M&O.

14       16. At all times relevant hereto, in his capacity as Vice President, and an owner  
 15 and member of the Board of Directors of Defendant M&O, Defendant Byrd was in a  
 16 position of significant influence and power at M&O.

17       17. In or around May 2004, Eileen Craig filed a sexual harassment lawsuit against  
 18 Defendants Leon Byrd and M&O, which alleged that while she was employed as office  
 19 manager of Defendant M&O, her direct supervisor, Defendant Leon Byrd, engaged in  
 20 repeated sexual advances toward her and that his repeated advances "and the company's  
 21 cursory investigation constituted an actionable claim under Title VII of the Civil Rights Act  
 22 of 1964, 42 U.S.C. §§ 2000e *et seq.*, as well as various Arizona state laws." *See Craig v.*  
 23 *M&O Agencies, Inc.*, 496 F.3d 1047 (9<sup>th</sup> Cir. 2007).

24       18. Upon information and belief, at the time the *Craig* sexual harassment lawsuit  
 25 was filed, Defendant Byrd was in line to become the President of Defendant M &O.

26       19. Upon information and belief, as a result of the *Craig* sexual harassment

1 lawsuit, Defendant Byrd did not become President of Defendant M&O.

2 20. In the Fall of 2004, Mr. Islas was scheduled to provide testimony as a witness  
3 in the *Craig* sexual harassment lawsuit.

4 21. During the Fall of 2004, after Mr. Islas was scheduled to testify, Defendant  
5 M&O demanded that Mr. Islas sign an "Employment Agreement," which contained  
6 extremely broad and onerous non-compete, anti-solicitation, and confidentiality provisions.

7 22. Mr. Islas objected to signing the Employment Agreement, as written, on the  
8 basis that it was extremely overbroad and unduly onerous, however, Defendant M&O  
9 insisted that Mr. Islas sign the agreement "as is" if he wanted to continue working for  
10 Defendant M&O.

11 23. On November 8, 2004, Mr. Islas signed the Employment Agreement because  
12 he felt he had no choice but to do so in order to maintain his employment with M&O.

13 24. Thereafter, in December 2004, Mr. Islas provided deposition testimony in the  
14 *Craig* sexual harassment lawsuit, which detailed Defendant Byrd's history of inappropriate  
15 and sexual behavior toward Eileen Craig and other past women employees of Defendant  
16 M&O, which was unfavorable to Defendant Byrd and Defendant M&O.

17 25. At the time Mr. Islas provided the foregoing testimony, he was concerned that  
18 Defendants M&O and or Byrd would retaliate against him for doing so.

19 26. Following his deposition, and continuing through his termination on  
20 September 1, 2009, the working environment for Mr. Islas at M&O was extremely tense  
21 and uncomfortable, especially whenever Mr. Islas and Defendant Byrd were in the same  
22 room. Mr. Islas perceived that he was a target to be eliminated by Defendants M&O and  
23 Byrd.

24 27. In May 2005, the federal district court entered summary judgment in favor of  
25 Defendants M&O and Byrd in the *Craig* sexual harassment lawsuit.

26 28. Eileen Craig appealed the district court's decision to the Ninth Circuit Court

1 of Appeals, which appeal remained pending for more than two years, until August 9, 2007.

2 29. On August 9, 2007, the Ninth Circuit Court of Appeals reversed the district  
3 court's grant of summary judgment, and remanded the case for trial, finding that Craig had  
4 established that Defendant Leon Byrd's actions were pervasive and serious, and sufficient  
5 to state a sexual harassment claim. *See Craig v. M&O*, 496 F.3d 1047 (9<sup>th</sup> Cir. 2007).

6 30. Upon information and belief, the *Craig* sexual harassment lawsuit settled in or  
7 around February 2008, which settlement was made in exchange for a significant settlement  
8 payment by Defendant Byrd and/or M&O to Eileen Craig.

9 31. At or about the time Mr. Islas was scheduled to give testimony in the *Craig*  
10 sexual harassment lawsuit and continuing through his termination on September 1, 2009,  
11 Mr. Islas was subject to a hostile work environment and disparate treatment in his  
12 employment. Among other things, Defendant M&O withheld compensation from Mr. Islas  
13 and subjected Mr. Islas to additional performance criteria and other conditions of  
14 employment not required of similarly situated employees.

15 32. Upon information and belief, Defendant Byrd used his influence as Vice  
16 President, owner, and board member of Defendant M&O to facilitate the imposition of the  
17 additional performance criteria and other conditions of employment on Mr. Islas, which  
18 were not required of similarly situated employees.

19 33. On information and belief, the additional performance criteria and other  
20 conditions of employment were improperly imposed by Defendants on Mr. Islas in  
21 retaliation for his providing testimony adverse to Defendants in the *Craig* sexual  
22 harassment lawsuit and for Mr. Islas' prior reports to M&O management concerning  
23 Defendant Byrd's past history of inappropriate sexual behavior with women employees of  
24 Defendant M&O, and for purposes of creating a pretext that M&O could later use as an  
25 excuse for terminating Mr. Islas' employment.

26 34. In the summer of 2009, Mr. Islas was on track to satisfy the additional

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1 performance criteria imposed on him by Defendant M&O.

2 35. Nevertheless, in July 2009, Defendant M&O notified Mr. Islas that if he did  
3 not close a certain transaction by the end of August 2009, he would be terminated.

4 36. On August 5, 2009, Mr. Islas filed an internal claim of discrimination with  
5 Defendant M&O's Human Resources Department, wherein he complained he was being  
6 discriminated against because he had previously testified in a sexual harassment case filed  
7 against one of the principals of Defendant M&O, Defendant Leon Byrd.

8 37. Defendant M&O did not ever provide a response to Mr. Islas' internal  
9 complaint.

10 38. Instead, on September 1, 2009, Defendant M&O terminated Mr. Islas, for the  
11 stated reason that Mr. Islas' had allegedly failed to meet the increased production  
12 requirements that were imposed on him beginning in February 2008.

13 39. On December 18, 2009, Mr. Islas filed an EEOC complaint with the Arizona  
14 Civil Rights Division.

15 40. On Thursday, September 9, 2010, the Arizona Civil Rights Division issued a  
16 right to sue Notice. Mr. Islas received the right to sue Notice on or about Monday,  
17 September 13, 2010. A true and correct copy of the right to sue Notice is attached hereto,  
18 as Exhibit 1.

19  
20 **COUNT ONE**  
**(Wrongful Discharge against Defendant M&O)**

21 41. Plaintiff realleges and incorporates by reference all of the foregoing  
22 paragraphs in this First Amended Complaint as if fully set forth herein.

23 42. This cause of action is brought pursuant to the Arizona Employment  
24 Protection Act, A.R.S. § 23-1501 and the Arizona Civil Rights Act, A.R.S. § 41-1464,  
25 which prohibit an employer from discriminating against an employee because the employee  
26 has opposed any practice which is an unlawful employment practice or has made a charge,

1 testified or assisted or participated in any manner in an investigation, proceeding or hearing  
2 under Article 6 of this Chapter. A.R.S. § 41-1464.

3       43. Upon information and belief, Defendant M&O terminated Mr. Islas in  
4 retaliation for his opposition to, and reporting of, Defendant Byrd's inappropriate and  
5 sexually harassing behavior toward women employees of Defendant M&O, behavior that is  
6 prohibited by the Arizona Civil Rights Act.

7       44. Upon information and belief, Defendant M&O terminated Mr. Islas in  
8 retaliation for his testifying as a witness in the *Craig* sexual harassment lawsuit, which  
9 included claims for sexual harassment in violation of Title VII and the Arizona Civil Rights  
10 Act.

11       45. Upon information and belief, Defendant M&O terminated Mr. Islas in  
12 retaliation for filing an internal EEO complaint with Defendant M&O.

13       46. Upon information and belief, Defendant M&O's proffered reason for  
14 terminating Mr. Islas, that Mr. Islas had failed to meet production goals, were pretextual  
15 because: 1) at the time of his termination, Mr. Islas was on track to meet the increased  
16 production goals; and 2) upon information and belief, the increased production goals were  
17 not imposed on any similarly situated employee.

18       47. Upon information and belief, Defendant M&O's termination of Mr. Islas as  
19 alleged in this First Amended Complaint constitutes an unlawful employment practice, in  
20 violation of A.R.S. § 41-1464 and A.R.S. § 23-1501, *et seq.*

21       48. As a direct, foreseeable and proximate result of Defendant M&O's  
22 discriminatory acts, Mr. Islas has suffered and continues to suffer substantial loss of  
23 earnings and job benefits, and has suffered and continues to suffer humiliation,  
24 embarrassment, mental and emotional distress and discomfort, all to plaintiff's damage, in  
25 an amount to be proven at trial.

26       49. Defendant M&O committed the foregoing acts intentionally and maliciously,

1 willfully and wantonly, entitling Mr. Islas to an award of punitive damages in an amount  
2 appropriate to punish and make an example of Defendant M&O.

3 50. Plaintiff is entitled to his reasonable costs and attorneys' fees, pursuant to  
4 A.R.S. § 41-1481.

**COUNT TWO**  
**(Breach of the Implied Covenant of Good Faith**  
**And Fair Dealing)**

51. Plaintiff realleges and incorporates by reference all of the foregoing paragraphs in this First Amended Complaint as if fully set forth herein.

52. The employment relationship between Plaintiff and Defendant M&O was contractual in nature and carried with it the implied covenant of good faith and fair dealing.

53. On information and belief, Defendants breached the implied covenant of good faith and fair dealing by terminating Plaintiff's employment for improper cause, as detailed above, and thereby depriving Plaintiff of the benefits of his employment, wages, commissions and other employment benefits, including retirement plan benefits.

54. Defendants' breach of the implied covenant of good faith and fair dealing has proximately caused, and continues to cause damage to Plaintiff, in an amount to be proven at trial.

55. This action arises out of a contract; Plaintiff is entitled to recover his reasonable attorneys' fees and taxable costs, pursuant to A.R.S. §§ 12-341 and 12-341.01.

**COUNT THREE**  
**(Tortious Interference with Contract against Defendant M&O)**

56. Plaintiff realleges and incorporates by reference all of the foregoing paragraphs in this First Amended Complaint as if fully set forth herein.

57. During the period between June 9, 1986 and ending on September 1, 2009, Mr. Islas had a contract of employment with Defendant M&O that entitled him to receive

1 wages, commissions, bonuses, and other benefits in exchange for carrying out his duties as  
 2 a Commercial Lines Agent, such as writing insurance policies and/or securing policy  
 3 renewals for existing client accounts.

4       58. Prior to the time of his termination, Mr. Islas had performed all the work  
 5 necessary to secure policy renewals on a number of his existing client accounts for the  
 6 period from September through December 2009.

7       59. Upon information and belief, a number of the policies on existing client  
 8 accounts of Mr. Islas were in fact renewed during the period between September and  
 9 December 2009, and policy premiums were paid to Defendant M&O.

10      60. Upon receipt of the policy premium, agent commissions became due and  
 11 payable.

12      61. Upon information and belief, Defendant M&O knew of and had reason to  
 13 know of Mr. Islas' existing customer accounts and the status and timing of the policy  
 14 renewals and payment of policy premiums on Mr. Islas' customer accounts.

15      62. Upon information and belief, on or about September 1, 2009, Defendant  
 16 M&O improperly terminated Mr. Islas in retaliation for his providing testimony in the  
 17 *Craig* sexual harassment lawsuit, reporting inappropriate sexual behavior of Defendant  
 18 Leon Byrd toward women employees, and/or for filing an internal civil rights complaint.

19      63. Defendant M&O's termination of Mr. Islas was for improper cause and was  
 20 without justification.

21      64. As a result of his improper termination, Mr. Islas was deprived of his right to  
 22 receive commissions on his pending customer accounts, even though he had performed all  
 23 work necessary to secure the policy renewals.

24      65. As a direct and proximate result of Defendant M&O's improper termination  
 25 of Mr. Islas, Mr. Islas has suffered compensatory damages, including but not limited to lost  
 26 wages, commissions, benefits, as well as general damages for mental and emotional distress

1 in an amount to be proven at trial.

2 66. Defendant M&O's actions were intentional, willful, wanton and malicious,  
 3 thereby justifying the imposition and award of punitive damages.

4 67. This action arises out of contract, therefore, Mr. Islas is entitled to his  
 5 reasonable attorneys' fees and taxable costs, pursuant to A.R.S. §§ 12-341 and 12-341.01

6 **COUNT FOUR**  
 7 **(Tortious Interference with Contract against Defendants**  
 Leon Byrd and Patricia Roberts)

8 68. Plaintiff realleges and incorporates by reference all of the foregoing  
 9 paragraphs in this First Amended Complaint as if fully set forth herein.

10 69. During the term of his employment with Defendant M&O, Mr. Islas had  
 11 business relations and expectancies with customers.

12 70. At all times relevant, Defendants Byrd and Roberts knew of Mr. Islas'  
 13 existing employment agreement with M&O and Mr. Islas' business relations and  
 14 expectancies with customers, and his expectation of earning and receiving commissions,  
 15 bonuses, and other benefits as a result of his efforts with customers.

16 71. On information and belief, Defendant Byrd improperly, willfully and  
 17 intentionally interfered with Mr. Islas' employment relationship with M&O and with his  
 18 existing and prospective contractual relations with customers by, among other things, using  
 19 his substantial influence as Vice President, owner and board member of Defendant M&O to  
 20 facilitate the imposition of additional performance and other criteria on Mr. Islas, thereby  
 21 creating a pretext that later could be used as an excuse for terminating Mr. Islas'  
 22 employment with M&O, and Mr. Islas' loss of business relations and expectancies with  
 23 customers.

24 72. On information and belief, Defendant Byrd used his influence for an improper  
 25 purpose, namely to retaliate against Mr. Islas for providing testimony in the *Craig* sexual

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1 harassment lawsuit and for reporting Defendant Byrd's inappropriate sexual conduct with  
2 other women employees of Defendant M&O to management personnel.

3       73.    Defendant Byrd had no justification for interfering with Mr. Islas' existing  
4 employment with Defendant M&O, or for interfering with Mr. Islas' existing and  
5 prospective customer relations.

6       74.    Defendant Byrd's interference proximately caused injury to Mr. Islas, which  
7 has resulted in actual damage, including loss of his employment relationship with  
8 Defendant M&O, humiliation and embarrassment associated therewith, as well as losses  
9 from, among other things, Mr. Islas' loss of customers and potential customers, loss of right  
10 to receive commissions on accounts for which renewal work was already performed.  
11 Defendant Byrd's tortious conduct has caused and will in the future continue to cause Mr.  
12 Islas damage.

13       75.    Defendant Byrd's actions were intentional, willful, wanton, and malicious,  
14 justifying the imposition and award of punitive damages.

15       76. This action arises out of contract, therefore Mr. Islas is entitled to his  
16 reasonable attorneys' fees and taxable costs, pursuant to A.R.S. §§ 12-341 and 12-341.01.

**COUNT FIVE**  
**(Unjust Enrichment against Defendants Byrd and Roberts)**

19       77. Plaintiff realleges and incorporates by reference all of the foregoing  
20 paragraphs in this First Amended Complaint as if fully set forth herein.

21       78. At all times relevant, Defendants Byrd and Roberts knew of Mr. Islas'  
22 existing employment relationship with M&O and Mr. Islas' business relations and  
23 expectancies with his existing customers.

24       79. On information and belief, Defendant Byrd improperly, willfully and  
25 intentionally interfered with Mr. Islas' employment with M&O and existing and  
26 prospective contractual relations by, among other things, using his substantial influence as

1 Vice President, owner and board member of Defendant M&O to facilitate the imposition of  
2 additional performance criteria and other conditions on Mr. Islas' employment, which set in  
3 motion a series of events that ultimately culminated in the improper termination of Mr. Islas  
4 on September 1, 2009.

5       80. Upon information and belief, Defendant Byrd used his influence for an  
6 improper purpose, namely to retaliate against Mr. Islas for providing testimony in the *Craig*  
7 sexual harassment lawsuit and for reporting Defendant Byrd's inappropriate sexual conduct  
8 with other women employees of Defendant M&O to management personnel.

9       81. Defendant Byrd had no justification for interfering with Mr. Islas' existing  
10 employment with Defendant M&O, or for interfering with Mr. Islas' existing and  
11 prospective customer relations.

12       82. During his employment with M&O, Defendant Byrd had a history of using  
13 his substantial influence to ensure that he or his wife was assigned the most lucrative  
14 accounts of terminated employees.

15       83. Upon information and belief, following Mr. Islas' termination, the majority of  
16 Mr. Islas' most lucrative accounts were transferred to Defendant Leon Byrd and/or his wife,  
17 Defendant Patricia Roberts.

18       84. Upon information and belief, as a direct consequence of Defendant Leon  
19 Byrd's improper actions, as set forth above, Defendants Leon Byrd and Patricia Roberts  
20 received the monetary benefits associated with the transfer of Mr. Islas' existing customer  
21 accounts to them, including but not limited to payment of commissions and compensation  
22 associated therewith.

23       85. As a direct and proximate consequence of their improper actions, Defendants  
24 Byrd and Roberts have been unjustly enriched, in an amount to be proven at trial.

25       86. Plaintiff requests a trial by jury.

26       ///

Rusing & Lopez, P.L.L.C.  
6262 North Swan Rd., Suite 200  
Tucson, Arizona 85718  
Telephone: (520) 792-4800

1 WHEREFORE, Plaintiff prays for entry of judgment against Defendants as follows:

2 A. For compensatory damages against Defendant M&O, in an amount to be  
3 proven at trial;

4 B. For compensatory damages against Defendants Byrd and Roberts, in an  
5 amount to be proven at trial;

6 C. For general damages against Defendants in an amount to be proven at trial;

7 D. For punitive damages against Defendant M&O;

8 E. For punitive damages against Defendants Byrd and Roberts;

9 F. For pre-judgment interest on all liquidated damages, and post-judgment  
10 interest on all damages awarded;

11 G. For reasonable costs and attorneys' fees, against Defendant M&O, pursuant to  
12 A.R.S. §§ 12-341 and 12-341.01, A.R.S. § 41-1481, and any other applicable statute or rule.

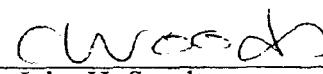
13 H. For reasonable costs and attorneys' fees, against Defendants Byrd and  
14 Roberts, pursuant to A.R.S. §§ 12-341 and 12-341.01, and any other applicable statute or  
15 rule;

16 I. For such injunctive relief as may be required to redress the actions  
17 complained of herein; and

18 J. For such other relief as may be just and proper.

19 DATED this 11th day of January, 2011.

20 RUSING & LOPEZ, P.L.L.C.

21   
22 John H. Sundt  
23 Catherine M. Woods  
24 Rebecca K. O'Brien  
25 Attorneys for Plaintiff

**A (5)**

1 **Rusing & Lopez, P.L.L.C.**  
2 6262 North Swan Rd., Suite 200  
3 Tucson, Arizona 85718  
4 Telephone: (520) 792-4800  
5 Facsimile: (520)529-4262  
6 jsundt@rusingandlopez.com

7 John H. Sundt  
8 State Bar No. 011992; PCC No. 56192  
9 Catherine M. Woods  
10 State Bar No. 012023; PCC No. 65911  
11 Rebecca K. O'Brien  
12 State Bar No. 021954; PCC No. 65649  
13 Attorneys for Plaintiff Filiberto J. Islas, Jr.

14 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

15 **IN AND FOR THE COUNTY OF PIMA**

16 **Filiberto J. Islas, a married man,**

17 Plaintiff,

18 **vs.**

19 **M & O Agencies, Incorporated, an**  
20 **Arizona corporation, dba The Mahoney**  
21 **Group; Leon Byrd and Patricia Roberts,**  
22 **husband and wife; XYZ Corporations 1-**  
23 **3; John and Jane Does 1-20;**

24 **Defendants.**

25 **NO. C20109665**

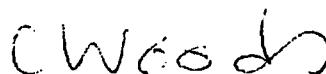
26 **PLAINTIFF FILIBERTO J. ISLAS'**  
**DEMAND FOR JURY TRIAL**

27 **(Assigned to Hon. Richard Gordon)**

28 Pursuant to Rule 38(b), A.R.C.P., Plaintiff Filiberto J. Islas demands a jury trial in  
29 connection with the trial of the above-captioned matter.

30 DATED this 11 day of January, 2011.

31 **RUSING & LOPEZ, P.L.L.C.**

32   
33 John H. Sundt  
34 Catherine M. Woods  
35 Rebecca K. O'Brien  
36 Attorneys for Plaintiff

1 A copy of the foregoing mailed this  
11<sup>th</sup> day of January, 2011 to:

2 Julie A. Pace  
3 David A. Selden  
4 Jodi Bohr  
4 The Cavanagh Law Firm  
1850 N. Central Avenue, Ste. 2400  
5 Phoenix, Arizona 85004  
5 Attorneys for Plaintiff

6  
7 Julie A. Pace  
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Rusing & Lopez, P.L.L.C.  
6262 North Swan Rd., Suite 200  
Tucson, Arizona 85718  
Telephone: (520) 792-4800

**A (6)**

FILED  
PATRICIA A. NOLAN  
CLERK, SUPERIOR COURT

2011 JAN 18 PM 1:28

E-Z MESSENGER  
1209 E. Washington Street  
Phoenix, AZ 85034  
(602) 258-8081 FAX: (602) 258-8864

BY: E. BRADFORD,  
DEPUTY

CLIENT FILE NO.  
090035.001

IN THE ARIZONA SUPERIOR COURT  
STATE OF ARIZONA COUNTY OF PIMA

FILIBERTO J. ISLAS, A MARRIED MAN  
VS  
M & O AGENCIES, INCORPORATED

CASE NO. C20109665  
JUDGE GORDON

STATE OF ARIZONA  
MARICOPA COUNTY

AFFIDAVIT OF SERVICE

THE AFFIANT, being sworn, states: That I am a private process server registered in MARICOPA COUNTY and an Officer of the Court. On 01/12/11 I received the SUMMONS; FIRST AMENDED COMPLAINT; CERTIFICATE OF COMPULSORY ARBITRATION; PLAINTIFF FILIBERTO J. ISLAS' DEMAND FOR JURY TRIAL.

from RUSING & LOPEZ, P.L.L.C. and by CATHERINE M. WOODS in each instance I personally served a copy of each document listed above upon:

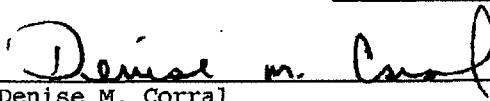
M & O AGENCIES, INCORPORATED, AN ARIZONA CORPORATION, DBA THE MAHONEY GROUP, BY SERVICE UPON ITS STATUTORY AGENT, MICHAEL J. MESENBRINK on 01/13/11 at 2:45 pm at 20410 N. 19TH AVE., #170 PHOENIX, AZ 85027 MARICOPA COUNTY in the manner shown below:

by leaving true copy(ies) of the above documents with MICHAEL MESENBRINK, STATUTORY AGENT, STATED AUTHORIZED TO ACCEPT.

Description: WHITE, Male, Approx. 50+ yrs. of age, 5' 7" tall, Weighing 150lbs., BLUE Eyes, GRAY Hair,



MARK DILUCCIA Affiant  
Sworn to before me the Jan 14, 2011

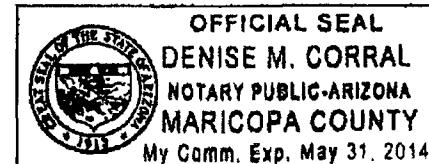
  
Denise M. Corral Notary

SERVICE OF PROCESS	\$	16.00
MILES	23	\$ 55.20
SERVICE CHARGE		\$ 6.50
AFFIDAVIT PREP/NOTARY	\$	10.00
<hr/>		
TOTAL	\$	87.70

My Commission expires: 05/31/2014

2032143 4303 05  
ORIGINAL

AX022032143  

ARIZONA SUPERIOR COURT, COUNTY OF PIMA

Filiberto J. Islas, a married man,

Case No.

**C20109665**

Plaintiff,

)  
SUMMONS

vs.

M & O Agencies, Incorporated, an Arizona corporation, dba The Mahoney Group; XYZ Corporations 1-3; John and Jane Does 1-20;

Richard E. Gordon

Defendant.

THE STATE OF ARIZONA to the above-named Defendant:

M & O Agencies, Incorporated  
c/o Michael J Mesenbrink, Statutory Agent  
20410 N 19th Ave #170  
Phoenix, AZ 85027

1. A lawsuit has been filed against you.
2. If you do not want a Judgment taken against you for the relief demanded in the accompanying Complaint, you must file a Response in writing in the Office of the Clerk of the Superior Court, 110 West Congress, Tucson, Arizona 85701, accompanied by the necessary filing fee. A copy of the Response must also be mailed to the Plaintiff/Attorney whose name appears below.
3. The Response must be filed within **TWENTY DAYS**, exclusive of the date of service, if served within the State of Arizona, or within **THIRTY DAYS**, exclusive of the date of service, if served outside the State of Arizona.
4. This is a legal document. If you do not understand its consequences, you should seek the advice of an attorney.
5. Requests for reasonable accommodation for persons with disabilities must be made to the court by parties at least three working days in advance of a scheduled court proceeding.

WITNESS My Hand and the Seal of the Superior Court.

DATED: **DEC 13 2010**

**PATRICIA A. NOLAND**

CLERK OF THE SUPERIOR COURT

By \_\_\_\_\_  
Deputy Clerk

ATTORNEY'S NAME, ADDRESS, PHONE

John H. Sundt  
State Bar No. 011992; PCC No. 56192  
Catherine M. Woods  
State Bar No. 012023; PCC No. 65911  
Rusing & Lopez, P.L.L.C.  
6262 North Swan Road, Suite 200  
Tucson, AZ 85718  
520-792-4800

A (7)

8  
FILED  
PATRICIA A. NOLAND  
CLERK, SUPERIOR COURT

2011 JAN 18 PM 1:32

E-Z MESSENGER  
65 E. Pennington Street BY: E. BRADFORD.  
Tucson, AZ 85701 DEPUTY  
(520) 623-8436 FAX: (520) 624-1819

CLIENT FILE NO.  
090035.001

IN THE ARIZONA SUPERIOR COURT  
STATE OF ARIZONA COUNTY OF PIMA

FILIBERTO J. ISLAS, A MARRIED MAN  
VS  
M & O AGENCIES, INCORPORATED

CASE NO. C20109665  
JUDGE GORDON

STATE OF ARIZONA  
PINAL COUNTY

) AFFIDAVIT OF SERVICE

)  
THE AFFIANT, being sworn, states: That I am a private process server registered in  
PINAL COUNTY and an Officer of the Court. On 01/12/11 I received the SUMMONS,  
FIRST AMENDED COMPLAINT, CERTIFICATE OF COMPULSORY ARBITRATION; PLAINTIFF FILIBERTO  
J. ISLAS' DEMAND FOR JURY TRIAL

from RUSING & LOPEZ, P.L.L.C. and by CATHERINE M. WOODS in each instance I  
personally served a copy of each document listed above upon:  
LEON B. BYRD, JR. AND PATRICIA ROBERTS, HUSBAND AND WIFE on 01/14/11 at 8:12 am at  
1045 W. DREAM CHASER CT. ORO VALLEY, AZ 85737 PIMA COUNTY in the manner shown  
below:

by leaving 2 true copy(ies) of the above documents with PATRICIA ROBERTS, WIFE in  
person, a person of suitable age and discretion residing within their usual place  
of abode located at the above address.

Description: WHITE, Female, Approx. 55 yrs. of age, 5' 5" tall, Weighing 140lbs.,  
BROWN Eyes, BROWN Hair,

*Earl M. Christenson*  
EARL M. CHRISTENSON, ACPS Affiant  
Sworn to before me the Jan 17, 2011

*Priscilla C. Dominguez*

Priscilla C. Dominguez	OFFICIAL Notary
My Commission #	11-05-2011
NOTARY PUBLIC-ARIZONA	
PIMA COUNTY	
Ex. Nov. 5, 2011	
2032146 4303 05	ORIGINAL

SERVICE OF PROCESS	\$ 32.00
MILES	13 \$ 31.20
SERVICE CHARGE	\$ 6.50
AFFIDAVIT PREP/NOTARY	\$ 10.00
TOTAL \$	79.70

ARIZONA SUPERIOR COURT, COUNTY OF PIMA

Filiberto J. Islas, a married man,

Plaintiff,

vs.

M & O Agencies, Incorporated, an Arizona corporation,  
dba The Mahoney Group; Leon Byrd and Patricia  
Roberts, husband and wife; XYZ Corporations 1-3; John  
and Jane Does 1-20;

Defendants.

Case No. C20109665

SUMMONS

Assigned to: Hon. Richard E. Gordon

THE STATE OF ARIZONA to the above-named Defendant:

Leon B. Byrd, Jr.  
1045 W. Dream Chaser Ct.  
Oro Valley, AZ 85737

1. A lawsuit has been filed against you.
2. If you do not want a Judgment taken against you for the relief demanded in the accompanying Complaint, you must file a Response in writing in the Office of the Clerk of the Superior Court, 110 West Congress, Tucson, Arizona 85701, accompanied by the necessary filing fee. A copy of the Response must also be mailed to the Plaintiff/Attorney whose name appears below.
3. The Response must be filed within **TWENTY DAYS**, exclusive of the date of service, if served within the State of Arizona, or within **THIRTY DAYS**, exclusive of the date of service, if served outside the State of Arizona.
4. This is a legal document. If you do not understand its consequences, you should seek the advice of an attorney.
5. Requests for reasonable accommodation for persons with disabilities must be made to the court by parties at least three working days in advance of a scheduled court proceeding.

WITNESS My Hand and the Seal of the Superior Court.

DATED: JAN 1 1 2011

**PATRICIA A. NOLAND**

CLERK OF THE SUPERIOR COURT

By \_\_\_\_\_  
Deputy Clerk

ATTORNEY'S NAME, ADDRESS, PHONE  
Catherine M. Woods  
John Sundt  
Rebecca K. O'Brien  
Rusing & Lopez, P.L.L.C.  
6262 North Swan Road, Suite 200  
Tucson, AZ 85718  
520-792-4800  
Computer No. 65911

ARIZONA SUPERIOR COURT, COUNTY OF PIMA

Filiberto J. Islas, a married man

Plaintiff,

VS.

M & O Agencies, Incorporated, an Arizona corporation,  
dba The Mahoney Group; Leon Byrd and Patricia  
Roberts, husband and wife; XYZ Corporations 1-3, John  
and Jane Doe's 1-20;

Defendants.

) Case No. C20109665

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)  
)  
SUMMONS

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)  
Assigned to: Hon. Richard E. Gordon

THE STATE OF ARIZONA to the above-named Defendant: Patricia Roberts  
1045 W. Dream Chaser Ct.  
Oro Valley, AZ 85737

1. A lawsuit has been filed against you.
2. If you do not want a Judgment taken against you for the relief demanded in the accompanying Complaint, you must file a Response in writing in the Office of the Clerk of the Superior Court, 110 West Congress, Tucson, Arizona 85701, accompanied by the necessary filing fee. A copy of the Response must also be mailed to the Plaintiff/Attorney whose name appears below.
3. The Response must be filed within **TWENTY DAYS**, exclusive of the date of service, if served within the State of Arizona, or within **THIRTY DAYS**, exclusive of the date of service, if served outside the State of Arizona.
4. This is a legal document. If you do not understand its consequences, you should seek the advice of an attorney.
5. Requests for reasonable accommodation for persons with disabilities must be made to the court by parties at least three working days in advance of a scheduled court proceeding.

WITNESS My Hand and the Seal of the Superior Court.  
JAN 1 1 2011

DATED:

**PATRICIA A. NOLAND**  
CLERK OF THE SUPERIOR COURT

By \_\_\_\_\_  
Deputy Clerk

ATTORNEY'S NAME, ADDRESS, PHONE  
Catherine M. Woods  
John Sundt  
Rebecca K. O'Brien  
Rusing & Lopez, P.L.L.C.  
6262 North Swan Road, Suite 200  
Tucson, AZ 85718  
520-792-4800  
Computer No. 65911